

Law Offices

of

RECEIVED

GLENN JARVIS

Telephone (956) 682-2660

Telefax (956) 618-2660

2016 SEP -6 A 10:56

Inter National Bank Building  
1801 South Second Street, Suite 550  
McAllen, Texas 78503  
www.GlennJarvis.com

WATER AVAILABILITY DIV.

August 31, 2016

Mr. Humberto "Bert" Galvan, MC-160  
Project Manager  
Water Rights Permitting & Availability Section  
TEXAS COMMISSION ON ENVIRONMENTAL QUAL.  
P. O. Box 13087, Capitol Station  
Austin, TX 78711-3087

Via Electronic Transmission  
And  
Via Regular U.S. Mail

Re: Amended Application for Amendment to a Water Right, Certificate of Adjudication No. 23-288, Rio Grande Basin / Russell Plantation

Dear Mr. Galvan:

Previously, our office submitted Application of the Estate of Martha M. Russell, by and through James Dunn Russell, Independent Executor and James D. Russell a/k/a James Dunn Russell, Individually, to amend Certificate of Adjudication No. 23-288 seeking to adding mining use as an additional purpose of use in addition to irrigation (agricultural) use and change in diversion points with respect to mining use only (See attached letter dated October 11, 2013).

Now that the change of ownership for Russell Plantation has been established by TCEQ (See attached TCEQ letter dated August 22, 2016), I am enclosing herewith for filing and processing Russell Plantation's Amended Application for Amendment to a Water Right, to amend Certificate of Adjudication No. 23-288 by adding mining use as an additional purpose of use in addition to irrigation (agricultural) use and change in diversion points with respect to mining use only with respect to the portion of its ownership of water rights under Certificate No. 23-288 as set forth in the August 22, 2016, TCEQ letter.

Also enclosed is *System Inventory and Water Conservation Plan for Individually-Operated Irrigation Systems* of Russell Plantation. This Plan was originally filed by the Estate of Martha M. Russell, by and through James Dunn Russell, Independent Executor and James D. Russell a/k/a James Dunn Russell, Individually, as the farm is operated jointly with the same use and irrigation practices utilized by all related Russell owners of the rights under Certificate 23-288.

Ms. Bert Galvan, MC-160  
August 31, 2016  
Page 2 of 2

Thank you for your attention and assistance in this matter. Should any further information be needed to process the Amended Application, please do not hesitate to contact me.

Very truly yours,

  
Glenn Jarvis

GJ:llc  
Encl.

xc: Mr. James Russell  
28481 Highway 100  
Los Fresnos, TX 78566

TEXAS COMMISSION  
ON  
ENVIRONMENTAL QUALITY

RECEIVED

2016 SEP -6 A 10: 56

AUSTIN, TEXAS

§ APPLICATION FOR AMENDMENT  
TO  
§ CERTIFICATE OF ADJUDICATION  
NO. 23-288

§ WATER AVAILABILITY DRY NO GRANDE BASIN

### AMENDED APPLICATION FOR AMENDMENT TO A WATER RIGHT

---

RUSSELL PLANTATION, a Texas limited partnership, a/k/a RUSSELL PLANTATION, LTD, 28481 Highway 100, Los Fresnos, Cameron County, Texas 78566 (hereinafter called "APPLICANT") hereby requests that its Water Rights to waters of the Rio Grande under Certificate of Adjudication No. 23-288, Rio Grande Watershed, Lower Rio Grande Basin (hereinafter called the "Water Rights" or "Certificate" respectively), be amended so as to change the purpose of use of the Water Rights to include, in addition to agricultural (irrigation) use, the use of water for mining use purposes with a change in diversion points to other points with respect to such mining use only, and as grounds for this Application would state as follows:

1. The Applicant's Water Rights authorize the diversion of up to a maximum of 8709.561 acre feet per annum for irrigation (agricultural) purposes from the Rio Grande on a Class "A" irrigation priority basis. The Water Rights are a portion of the water rights owned by Applicant, pursuant to the Certificate of Adjudication No. 23-288.

2. Applicant requests that the purpose of use of the Water Rights be changed by adding mining use as a purpose of use in addition to agricultural use.

3. Applicant requests that the point of diversion of the Water Rights for mining use purposes only under the Certificate be authorized to be diverted anywhere along the east bank of the Rio Grande, between Amistad Reservoir and the Gulf of Mexico in Val Verde, Kinney,

Maverick, Webb, Zapata, Starr, Hidalgo and Cameron Counties for mining use purposes. The diversion segment is defined as follows:

- A. Upper limit of the diversion segment is located in Val Verde County at Latitude 29.431503°N, Longitude 101.044572°W; and
- B. Lower limit of the diversion segment is located in Cameron County at Latitude 25.955256°N, Longitude 97.146311°W.

The diversion point for the agricultural use rights shall remain the same, and no change in diversion point is requested with respect to the agricultural use rights under the Certificate.

4. (a) Applicant understands that the use of water for agricultural and/or mining use purposes is intended for use by Applicant. All contracts for the sale of all or part of this water by the Applicant shall be filed with the Executive Director and found sufficient in accordance with Title 30 Texas Administrative Code 303.51-53 prior to the diversion of water. If the buyer is not currently a water right holder of record in the Middle or Lower Rio Grande, the buyer shall also apply for and be granted a water rights permit authorization, which may include a Temporary Water Use Permit, Contractual Permit, or an amendment to this Certificate of Adjudication.

(b) Applicant is filing herewith the System Inventory and Water Conservation Plan for Individually Operated Irrigation Systems adopted by Applicant which is the same Plan that has been previously filed by *The Estate of Martha M. Russell, by and through James Dunn Russell, Independent Executor and James D. Russell a/k/a James Dunn Russell Individually*, because Applicant's water rights are associated with water rights of such parties because the farm is operated jointly with the same use and irrigation practices utilized by all owners of the rights under the Certificate.

(c) Applicant does not have in place operations in need of mining use water rights, however, anticipates that in the future water will be used for mining use purposes. Since

there are no current operations it is not feasible to prepare a Conservation Plan. Applicant requests that in lieu of the current filing of a Mining Conservation Plan, that a condition be included in the requested Amendment to the Certificate which requires that such a Plan be required in advance of the actual use of water for mining use purposes.

5. No other amendments to the Water Rights under the Certificate are requested or involved herein.

6. The address of the Applicant is:

Russell Plantation  
c/o James D. Russell  
28481 Highway 100  
Los Fresnos, TX 78566

**Tax I.D.: 74-2344345**

7. Applicant does not owe any delinquent fees and/or penalties to the Commission, and understands that the Commission may require additional information in regards to the requested amendment of the Water Rights before considering this Application. Applicant is submitting the required fees herewith.

8. Applicant states that the change in purpose of use and point of diversion as requested herein does not contemplate a use of water which would harm any other existing water right holders on the Rio Grande below Amistad and Falcon Reservoir and will not prejudice any other water right holders on the Rio Grande below Amistad and Falcon Reservoirs.

9. This Application is amending the Application previously filed by The ESTATE OF MARTHA M. RUSSELL, by and through JAMES DUNN RUSSELL, INDEPENDENT EXECUTOR and JAMES D. RUSSELL a/k/a JAMES DUNN RUSSELL, INDIVIDUALLY, by changing the name of the Applicant and making the Application only apply to water rights owned by Russell Plantation as noted above.

WHEREFORE, Applicant respectfully requests that this Amended Application be approved, and that an Amendment to Certificate of Adjudication No. 23-288 be issued, changing the purpose of use and point of diversion of the water rights as requested above.

DATED this 30th day of August, 2016.

RUSSELL PLANTATION  
a/k/a RUSSELL PLANTATION, LTD.

By: [Signature]

James Dunn Russell

Its: president of J&S Investments, Inc  
its general partner

STATE OF TEXAS  
COUNTY OF CAMERON

§  
§

SUBSCRIBED AND SWORN TO BEFORE ME by James D. Russell a/k/a James Dunn Russell on this the 30th day of August 2016, in the capacity as stated, to certify which witness my hand and seal of office.



[Signature]  
Notary Public in and for the State of Texas